

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

TOWAUN COLEMAN,

Plaintiff,

-vs-

9:15-CV-40
(TJM/ATB)

STEVEN RACETTE, Superintendent, Clinton
Correctional Facility, and L. NOLAN,
Prison Guard

Defendants.

**Thomas J. McAvoy,
United States District Judge**

DECISION and ORDER

This matter was referred to the Hon. Andrew T. Baxter, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Rule 72.3(d) of the Local Rules of the Northern District of New York. No objections to the December 7, 2015 Report-Recommendation have been raised. Plaintiff has instead provided the Court with a copy of his discovery requests. See dkt. # 35. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. Accordingly, this Court adopts the Report-Recommendation and Order for the reasons stated therein.

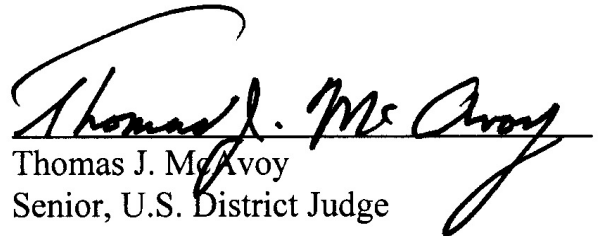
Accordingly, the Report and Recommendation of Magistrate Judge Baxter is hereby ADOPTED, and:

1. The Defendants' Motion to Dismiss, dkt. # 28, is hereby GRANTED;
2. The Complaint against Defendant Racette is dismissed in its entirety;

3. Plaintiff's retaliation claims are dismissed against Defendant Nolan; and
4. It is hereby ORDERED that the case proceed to discovery as against Defendant Nolan for Plaintiff's excessive force claim only.

IT IS SO ORDERED.

Dated: January 4, 2016


Thomas J. McAvoy
Senior, U.S. District Judge